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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

vs.

OSCAR MARTINEZ,

Defendant.

Case No. 2:23-mj-00296 DBP

COMPLAINT

SEALED

Judge Dustin B. Pead

Before the Honorable Dustin B. Pead, United States Magistrate Judge for the
District of Utah, appeared the undersigned, who on oath deposes and says:

COUNT I

False Statement During Purchase of a Firearm

On or about February 3, 2023, in the Central Division of the District of Utah,

OSCAR MARTINEZ,

the defendant herein, in connection with the acquisition of a firearm, a rifle with serial no.
Z70-123897, knowingly made a false and fictitious written statement to First Cash
Pawn/First Cash Sales, which statement was intended and likely to deceive First Cash

Pawn, as to a fact material to the lawfulness of such sale of the said firearm to the defendant under chapter 44, of Title 18, in that the defendant represented that he was the ultimate purchaser of the firearm; all in violation of 18 USC § 922(a)(6).

AFFIDAVIT IN SUPPORT OF COMPLAINT AND ARREST WARRANT

This complaint is based on the following information:

I, Sean Nicolio, being first duly sworn, depose and say:

1. I am a Special Agent (SA) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and have been so employed since July of 2019. The information contained in this complaint is based on an investigation conducted by your affiant along with other ATF Agents, Task Force Officers, and officers from the West Valley City Police Department (WVCPD).
2. On March 16, 2023, two individuals who drove from Salt Lake City, UT were selected for an inspection by the Eagle Pass Border Patrol Officers at the U.S. Customs and Border Protection Eagle Pass Border Patrol Station located at 2285 Del Rio Blvd, Eagle Pass, TX 78852. From the inspection, officers discovered twenty (20) long guns, fourteen (14) handguns, sixty-eights (68) magazines with assorted ammunition hidden inside three speaker boxes. In an interview with the two drivers, they told officers that two other individuals, who reside in Utah, had instructed and paid them to ship the speaker boxes to Mexico. The drivers stated they had transported speakers on five previous occasions from these same two individuals to Mexico.

3. ATF agents researched the phone numbers associated with the individuals who had paid for the shipping of the speaker boxes. Based on this research, agents were able to identify the individuals as JAVIER CATALAN BAHENA and ERASMO MARTINEZ. BAHENA and ERASMO are aliens who are not lawfully in the United States and are therefore restricted persons.
4. ATF agents investigated this incident through eTrace, a database that allows law enforcement to track gun histories including the purchase and potential movement of firearms using serial numbers or other identifiers and also through the collection of ATF form 4473s from multiple Federal Firearms Licenses (FFLs). A firearms transaction record or ATF form 4473 is a form prescribed by the ATF which is required to be completed when a person proposes to purchase a firearm from an FFL. eTrace revealed that one (1) of the thirty-four (34) firearms seized was the rifle with serial no. Z70-123897 purchased by OSCAR MARTINEZ on February 3, 2023.
5. The time to crime (time between the gun's purchase and when the gun was found in relation to a crime) for the rifle purchased by OSCAR on February 3, 2023, was thirty-nine (39) days. ATF trace analysis has consistently shown that trafficked firearms usually have a time to crime to less than 12 months.
6. Queries of eTrace and ATF form 4473s from FFLs in Utah revealed that OSCAR has purchased a significant amount of firearms from November 2016 to February 2023. As of March 30, 2023, at least thirty-three (33) firearms have been

purchased by OSCAR from FFLS in Utah. Of the thirty-three (33) firearms, twenty-two (22) firearms were purchased from 2021 to present.

7. On each 4473, OSCAR wrote the answer “Yes” for question 21a, “Are you the transferee/actual buyer of the firearm(s) listed on the form and any continuation sheet(s)?” OSCAR most recently attempted to purchase a firearm on March 30, 2023 at Legacy Shooting Center, 1475 West 9000 South, West Jordan, UT, 84088. Agents responded and spoke to employees, who told them that three individuals had come in and shot firearms on the shooting range. When shown photos, employees identified ALVARO MARTINEZ (OSCAR’s brother), OSCAR, and BAHENA as the three people.
8. While waiting for OSCAR to return to Legacy Shooting Center to pick up the purchased firearm, officers observed him leaving the residence at 2125 West Alesa Street, West Valley City, UT. Officers conducted a traffic stop of the vehicle and arrested OSCAR.
9. Officers executed a search warrant on March 31, 2023 at 2125 West Alesa Street, West Valley City, UT. OSCAR and ALVARO’s parents live at that address and ALVARO has used that address on 4473s in the past. Officers located thirteen (13) firearms, most of which were in a safe. Upon questioning, OSCAR’s father told officers that all the firearms in the safe belonged to OSCAR or ALVARO.
10. OSCAR was Mirandized. Post-Miranda, he told officers that he had purchased approximately eighty (80) firearms in the last three years and about eight (8) to ten

(10) firearms left in his possession. OSCAR also admitted to selling the two firearms seized in Texas on March 16, 2023 to ERASMO and another individual.

Based on the foregoing information, your affiant respectfully requests that warrants of arrest be issued for OSCAR MARTINEZ for violations of 18 USC § 922(a)(6) and 924(a)(2).

SEAN NICOLIO Digitally signed by SEAN NICOLIO
Date: 2023.04.03 15:14:52 -06'00'

SEAN NICOLIO
Special Agent ATF

SUBSCRIBED AND SWORN to before me this 3rd day of April, 2023.


Dustin B. Peadar
United States Magistrate Judge



APPROVED:

TRINA A. HIGGINS
United States Attorney

Maria Mooers-Putzer Digitally signed by Maria Mooers-
Putzer
Date: 2023.04.03 15:35:07 -06'00'

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Assistant United States Attorney